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## Proposed Regulation Agency Background Document

<b>Agency name</b>	Board of Medicine, Department of Health Professions
<b>Virginia Administrative Code (VAC) citation</b>	18 VAC 85 -120
<b>Regulation title</b>	Regulations Governing the Certification of Athletic Trainers
<b>Action title</b>	45-day authorization to practice
<b>Document preparation date</b>	10/10/03

This information is required for executive review ([www.townhall.state.va.us/dpbpages/apaintro.htm#execreview](http://www.townhall.state.va.us/dpbpages/apaintro.htm#execreview)) and the Virginia Registrar of Regulations ([legis.state.va.us/codecomm/register/regindex.htm](http://legis.state.va.us/codecomm/register/regindex.htm)), pursuant to the Virginia Administrative Process Act ([www.townhall.state.va.us/dpbpages/dpb\\_apa.htm](http://www.townhall.state.va.us/dpbpages/dpb_apa.htm)), Executive Orders 21 (2002) and 58 (1999) ([www.governor.state.va.us/Press\\_Policy/Executive\\_Orders/EOHome.html](http://www.governor.state.va.us/Press_Policy/Executive_Orders/EOHome.html)), and the *Virginia Register Form, Style and Procedure Manual* ([http://legis.state.va.us/codecomm/register/download/styl8\\_95.rtf](http://legis.state.va.us/codecomm/register/download/styl8_95.rtf)).

### Brief summary

*In a short paragraph, please summarize all substantive changes that are being proposed in this regulatory action.*

This regulatory action will allow the Board of Medicine to authorize an applicant for certification as an athletic trainer to practice for no more than 60 days pending completion of the application package and submission of all documentation. Before receiving provisional certification to practice, an applicant and his employer must request the authorization for good cause, provide documentation of current certification from the National Athletic Trainers Association Board of Certification (NATABOC) and, if licensed or certified in another state, documentation that the license or certificate is current and unrestricted.

### Basis

*Please identify the state and/or federal source of legal authority to promulgate this proposed regulation, including (1) the most relevant law and/or regulation, including Code of Virginia citation and General*

*Assembly bill and chapter numbers, if applicable, and (2) promulgating entity, i.e., the agency, board, or person. Describe the legal authority and the extent to which the authority is mandatory or discretionary.*

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Regulations are promulgated under the general authority of Chapter 24 of Title 54.1 of the Code of Virginia. Section 54.1-2400 (6), which provides authority to promulgate regulations to administer the regulatory system:

***§ 54.1-2400 -General powers and duties of health regulatory boards***

*The general powers and duties of health regulatory boards shall be:*

*6. To promulgate regulations in accordance with the Administrative Process Act (§ 9-6.14:1 et seq.) which are reasonable and necessary to administer effectively the regulatory system. Such regulations shall not conflict with the purposes and intent of this chapter or of Chapter 1 (§ [54.1-100](#) et seq.) and Chapter 25 (§ [54.1-2500](#) et seq.) of this title. ...*

The specific legal authority to promulgate the regulation for provisional certification is found in paragraph C of § 54.1-2957.4.

**§ 54.1-2957.4. Certification as athletic trainer required; requisite training and educational requirements; powers of the Board concerning athletic training.**

A. It shall be unlawful for any person to practice or to hold himself out as practicing as an athletic trainer unless he holds a certificate as an athletic trainer ninety days after the effective date of regulations promulgated by the Board implementing athletic trainer certification. The Board shall issue certificates to practice athletic training to applicants for such certification who meet the requirements of this chapter and the Board's regulations.

B. The Board shall establish criteria for the certification of athletic trainers to ensure the appropriate training and educational credentials for the practice of athletic training. Such criteria may include experiential requirements and shall include one of the following: (i) a Virginia testing program to determine the quality of the training and educational credentials for and competence of athletic trainers, (ii) successful completion of a training program and passage of the certifying examination administered by the National Athletic Training Association Board of Certification resulting in certification as an athletic trainer by such national association, or (iii) completion of another Board-approved training program and certifying examination.

*C. At its discretion, the Board may grant provisional certification to persons who have successfully completed an approved training program or who have met requisite experience criteria established by the Board. Such provisional certification shall expire as provided for in the regulations of the Board.*

D. The Board shall promulgate such regulations as may be necessary for the certification of athletic trainers and the issuance of certificates to athletic trainers to practice in the Commonwealth. The Board's regulations shall assure the competence and integrity of any person claiming to be an athletic trainer or who engages in the practice of athletic training.

## Purpose

*Please explain the need for the new or amended regulation by (1) detailing the specific reasons why this regulatory action is essential to protect the health, safety, or welfare of citizens, and (2) discussing the goals of the proposal and the problems the proposal is intended to solve.*

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The purpose of the proposed regulatory action is to expand the current provisional certification to include persons who have applied for state certification and are otherwise qualified by virtue of holding certification from the National Athletic Trainers Association Board of Certification (NATABOC) but who are awaiting verifications of professional education, professional activity and licensure or certification in another state, if applicable. Provisional certification would allow those persons to begin work as an athletic trainer and not delay their employment by the several weeks it normally takes for all required documentation to be received. The health and safety of athletes, particularly those who are students in Virginia's schools and colleges, will be better protected by having a trainer who is authorized to practice as soon as his or her employment begins rather than having to wait several weeks for state certification.

### Substance

*Please briefly identify and explain the new substantive provisions, the substantive changes to existing sections, or both where appropriate. (More detail about these changes is requested in the "Detail of changes" section.)*

Section 75 is added to provided that: Upon written request from an applicant and his employer and for good cause shown, an applicant who provides documentation of current NATABOC certification and, if licensed or certified by another jurisdiction in the United States, documentation that his license or certificate is current and unrestricted may be granted authorization to practice as an athletic trainer for 45 days pending submission of all other required documentation and issuance of a certificate. At the discretion of the board, additional time, not to exceed 15 days, may be allowed to complete the application process.

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### Issues

*Please identify the issues associated with the proposed regulatory action, including:*

- 1) the primary advantages and disadvantages to the public, such as individual private citizens or businesses, of implementing the new or amended provisions;*
- 2) the primary advantages and disadvantages to the agency or the Commonwealth; and*
- 3) other pertinent matters of interest to the regulated community, government officials, and the public.*

*If the regulatory action poses no disadvantages to the public or the Commonwealth, please so indicate.*

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1) The primary advantage to the public would be the ability of athletic trainers to accept employment and begin practice sooner. School systems and higher education institutions would have the services of a trainer available, so students on athletic teams would receive appropriate preventive treatments and be safely treated for any injury that might occur. In most schools, there is only one athletic trainer on staff, so there would be no protection for athletes if a newly-hired person does not have authorization to practice. There are no disadvantages to this proposal. An athletic trainer would have to indicate minimal competency by submission of

documentation that he has passed the qualifying examination. In order to sit for the NATABOC examination, a candidate must provide evidence of completing an approved educational program in athletic training. If he failed to complete the state application or if adverse information was received, the maximum period of authorization to practice would be 60 days.

- 2) There are no advantages or disadvantages to the Commonwealth.
- 3) There are no other matters of interest related to this regulatory action that are pertinent to the regulated community, government officials, and the public.

**Economic impact**

*Please identify the anticipated economic impact of the proposed regulation.*

<p><b>Projected cost to the state to implement and enforce the proposed regulation, including (a) fund source / fund detail, and (b) a delineation of one-time versus on-going expenditures</b></p>	<p>a) As a special fund agency, the Board must generate sufficient revenue to cover its expenditures from non-general funds, specifically the renewal and application fees it charges to practitioners for necessary functions of regulation; b) The agency will incur some one-time costs (less than \$1,000) for mailings to the Public Participation Guidelines mailing lists and conducting a public hearing. Every effort will be made to incorporate those into anticipated mailings and Board meetings already scheduled; there will be on on-going expenditures associated with the fee increase.</p>
<p><b>Projected cost of the regulation on localities</b></p>	<p>None</p>
<p><b>Description of the individuals, businesses or other entities likely to be affected by the regulation</b></p>	<p>The entities that are likely to be affected by these regulations would be applicants for certification as an athletic trainer who need to be able to begin practice sooner than the 6-week period typically required to obtain all required documentation.</p>
<p><b>Agency's best estimate of the number of such entities that will be affected</b></p>	<p>Currently, there are 600 persons certified as athletic trainers in Virginia. It is not know how many applicants might be affected, but it is estimated that fewer than 25 per year will request the 45-day authorization.</p>
<p><b>Projected cost of the regulation for affected individuals, businesses, or other entities</b></p>	<p>There would be no cost to an applicant; provisional authorization to practice could be granted by written request from the applicant and his employer.</p>

**Alternatives**

*Please describe any viable alternatives to the proposal considered and the rationale used by the agency to select the least burdensome or intrusive alternative that meets the essential purpose of the action.*

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When a university or school system hires an athletic trainer, there is often a need for that individual to begin work almost immediately. At the present time, there is no mechanism for issuance of a temporary or provisional license or certification, so the trainer is unable to perform the duties for which he was hired until all documentation has been received and a certificate granted. To address the need to allow certified athletic trainers the ability to begin work once the application, fee and copy of current NATABOC are received, the Board would issue a provisional certificate under its authority in § 54.1-2957.4.

In the discussion of the proposed amendment, the Board considered the period of time for which the provisional certification should be valid. The Advisory Board on Athletic Training recommended that authorization to practice awaiting completion of an application be granted for 30 days with authorization to staff to grant an additional 30 days if necessary. There is precedence for a 30-day period for practice awaiting licensure in the profession of nursing. In § 54.1-3001, there is an exemption from licensure for an applicant who is licensed in another state or Canada and has submitted an application and fee to the Board.

The Legislative Committee of the Board considered the length of time it takes to receive verification of licensure from other jurisdictions, employment history, and transcripts from schools offering athletic training education to determine the appropriate limit for issuance of a provisional certificate. The vast majority of applications with accompanying documentation can be completed within 45 days, so to reduce the need for granting extensions, the Committee recommended that the initial authorization be granted for 45 days with authorization to staff to extend for another 15 days if necessary. The total period in which practice could occur with provisional authorization is still 60 days, but the number of people needing extensions should be minimal.

To distinguish between the graduate with a provisional certification, who is waiting for results of the certification examination and the certified athletic trainer who has completed all requirements for NATABOC certification and has applied for certification with the Virginia Board of Medicine, different terminology was used. Since the current provisional certificate holder has not passed the certification examination, he is required to work under the supervision and control of a certified trainer. For the limited period of the provisional authorization, it would not be necessary for an applicant who already has NATABOC certification to work under supervision and control. If an applicant provides evidence that he holds current NATABOC certification, the Board is satisfied that the trainer can work under provisional authorization for a limited period of time awaiting verification of other requirements and that the public health and safety is adequately protected.

### Public comment

*Please summarize all comments received during public comment period following the publication of the NOIRA, and provide the agency response.*

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The Notice of Intended Regulatory Action was published on July 28, 2003 with the comment period concluded on August 27, 2003. There were no public comments. The Virginia Athletic Trainers Association and the Advisory Board on Athletic Trainers indicated their support this proposal at the meeting of the advisory board.

**Family impact**

*Please assess the impact of the proposed regulatory action on the institution of the family and family stability.*

The Board has determined that there is no impact on the institution of the family or family stability as a result of these regulations.

**Detail of changes**

*Please detail all changes that are being proposed and the consequences of the proposed changes. Detail all new provisions and/or all changes to existing sections.*

*If the proposed regulation is intended to replace an emergency regulation, please list separately (1) all changes between the pre-emergency regulation and the proposed regulation, and (2) only changes made since the publication of the emergency regulation.*

Current section number	Current requirement	Proposed change and rationale
n/a	n/a	<p>Section 75 is added to provide that: Upon written request from an applicant and his employer and for good cause shown, an applicant who provides documentation of current NATABOC certification and, if licensed or certified by another jurisdiction in the United States, documentation that his license or certificate is current and unrestricted may be granted authorization to practice as an athletic trainer for 45 days pending submission of all other required documentation and issuance of a certificate. At the discretion of the board, additional time, not to exceed 15 days, may be allowed to complete the application process.</p> <p>Current regulations (18 VAC 85-120-80) provide for the issuance of a provisional certification to an applicant who is a graduate of an accredited education program or has fulfilled internship educational requirements though NATABOC and who has applied to take the certification examination to practice athletic training under the supervision and control of a certified athletic trainer.</p> <p>The Board proposes to add another type of provisional certification for an applicant who has already completed an educational program,</p>

		<p>passed the certifying examination and has been certified by NATABOC, and if licensed or certified in another state, verification of such licensure or certification. Such applicant and his employer would have to request the 45-day authorization in writing, submit an application and fee along with documentation of current NATABOC certification and licensure or certification in another state, if applicable. The Board could then issue a provisional authorization to practice for a period not to exceed 60 days, which would allow the applicant to begin practice during the time it takes to obtain other information and documentation, such as school transcripts, verification of professional activity and verification of licensure or certification from all other states.</p>
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